

[illegible]

**MONTANA STATE SENATE  
2007 LEGISLATURE**

**VISITOR REGISTER**

**JUDICIARY**

**DATE** 3-28-07

**BILLS BEING HEARD TODAY** HB-215, HB-420, HB-340

**PLEASE PRINT**

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Stewart Carlson	495-2176	Self	HB 340	✓	
Mike Brady	552-6278	MISSOULA Police	HB 340		✓
Jim Kember	439-6791	MACOP/MPPA	HB 340		✓
Dennis Paxinos	256-2870	Yellowstone Co	HB 340		✓
Fred Van Valkenburg	258-4737	Missoula Co. Attorney	HB 340		✓
Marty Lambert	582-3745	Gallatin City Atty	HB 340		X
Jim Cashe	582-2125	GALLATIN CITY SHERIFF	HB 340		X
Bud Dzikowski	443-7377	SELF	HB 340	✓	
TI Reed	422-5632	SELF	HB 340	✓	
JAMES SCHELL	227-7044	SELF/PARENT	HB 340	✓	
LINCOLN DZIEKOWSKI	802-1219	SELF	HB 340	✓	
GARY MARBLET	549-1252	MSSA, GOA, CCRKBA	340/420	✓	
DON DOIG	284-6945	Self	340/420	✓	
FRANKLIN "ELIAS" SHOCK	285-3374	JEFFERSON RIVER COALITION	340/420	✓	
NICOLE SMART	825-3007	SELF	340	✓	
David ANDERSON	875-2226	SELF; Yellowstone Co. Constitution	340/420	✓	
Doug NULLE	442-4073	SELF	340/420	✓	
Jennifer Hill-Hart	461-7530	MCADSV	HB 340		X
Greg Hartz	258-3302	MSPCA	HB 340		X
TONY HARBAGH	874-3320	MSPCA	HB 340		X
DANIEL R. Anderson	293-4112	MSPCA	HB 340		X

**PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY**

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DAVE SCHENK	843-5301	MSPDA	HB340		✓
Rubelwright+salmon	827-3584	MSPDA	HB340		✓
Leo Dillon	447-8235	MSPDA	HB340		✓
SERGE MYERS	791-3334	MYSELF	HB340	X	
George N. Lawd	797-3343	MSS	HB340	X	<del>OPPOSE</del>
Garett Bacon	425-3191	Prickly Pear/self	HB340/420	X	
Mike Weber	433-2515	MCA	HB340		✓
Cathy Day	461-0660	ACKU	HB315		X
Jani McCall	670-3084	American Diabetes Assoc	HB215		X
Jani McCall	670-3084	City of Billings	HB340		X
Bruce Mumber		misspoke	HB346	X	
Mike GUNNS	721-9070	MTCP HB 420	HB340	X	
Gail	443-0009	self	HB340	X	
Laura Rami	223-5330	USA	HB340	X	
Fred Easy	443-7656	Self & Son	HB340	X	
FRANK J. SMITH	768-3841	SELF	HB340		X
Tom Puckey	444-2026	DOT	HB340		
Chris Hoffman	375-4055	RAVALLI County SO	HB340		X
Joe Reed	223-5330	SELF	HB420	X	
JD Lynch	491-1861	Biotechnology Industry Org	HB215		X

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SENATE JUDICIARY

Exhibit No. \_\_\_\_\_

Date \_\_\_\_\_

Bill No. \_\_\_\_\_

Amendments to House Bill No. 340  
3rd Reading Copy

Requested by Senator Joe Balyeat

For the Senate Judiciary Committee

Prepared by Valencia Lane  
March 28, 2007 (7:34am)

1. Title, line 6.

**Following:** "45-8-316,"

**Insert:** "AND"

2. Title, line 7.

**Strike:** "AND 46-11-201,"

3. Page 1, line 24 through line 26.

**Strike:** section 2 in its entirety

**Insert:** "NEW SECTION. Section 2. Right of self defense --

**exceptions.** (1) A person is presumed to have held a reasonable fear of imminent death or serious bodily injury to the person or another person when using defensive force that is intended to or is likely to cause death or serious bodily injury to another person if:

(a) the person against whom the defensive force was used:

(i) was in the process of unlawfully and forcibly entering or had unlawfully and forcibly entered an occupied structure or vehicle; or

(ii) had removed or was attempting to remove another person against that person's will from the occupied structure or vehicle; and

(b) the person who uses defensive force knew or had reason to believe that an unlawful and forcible act was occurring or had occurred.

(2) The presumption set forth in subsection (1) does not apply if the person who uses defensive force is engaged in an unlawful activity or is using the occupied structure or vehicle to further an unlawful activity.

(3) A person who uses defensive force under subsection (1) or who is not engaged in an unlawful activity and who is attacked in any other place where the person has a right to be has no duty to retreat or summon assistance and has the right to stand the person's ground and meet force with force if the person reasonably believes it is necessary to do so to prevent death or serious bodily injury to the person or another person or to prevent the commission of a forcible felony.

(4) A person who unlawfully and by force enters or attempts to enter a person's occupied structure or vehicle is presumed to be doing so with the intent to commit an unlawful act involving

*MSA  
amendment  
(similar-but  
different from)  
DOJ  
Retains most  
amended &  
section  
repealer*

force or violence.

(5) A law enforcement agency may not arrest a person for using force unless the agency determines that there is probable cause that the force that was used was unlawful."

4. Page 1, line 28.

**Following:** "Defensive"

**Insert:** "or harmless"

5. Page 1, line 28 through line 29.

**Following:** "person" on line 28

**Strike:** remainder of line 28 through "shows" on line 29

**Insert:** "may give verbal warning of firearm possession or may display or show"

6. Page 1, line 29.

**Following:** "harmless"

**Insert:** "or"

**Following:** "purpose"

**Strike:** "may not be held accountable for a criminal act"

7. Page 1, line 30 through page 2, line 3.

**Strike:** subsection (2) in its entirety

**Renumber:** subsequent subsection

8. Page 2, line 11 through line 15.

**Strike:** section 4 in its entirety

**Insert:** "NEW SECTION. Section 4. Right of self defense -- immunity. (1) A person who uses force as permitted in [section 2] is justified in using force and is immune from civil actions for the use of force.

(2) The court shall award reasonable attorney fees and court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant is immune as provided in subsection (1)."

**Renumber:** subsequent sections

9. Page 3, line 25 through page 4, line 3.

**Strike:** section 5 through section 6 in their entirety

**Renumber:** subsequent sections

10. Page 4, line 30 through page 5, line 1.

**Following:** "imposed" on line 30

**Strike:** remainder of line 30 through "FIREARM," on page 5, line 1

11. Page 5, line 1.

**Following:** "person"

**Strike:** "1"

12. Page 5, line 1 through line 2.

**Following:** "to" on line 1

**Strike:** remainder of line 1 through "offense," on line 2

13. Page 5, line 14 through page 6, line 3.

**Strike:** section 10 in its entirety

**Renumber:** subsequent sections

14. Page 6, line 7.

**Following:** "5"

**Strike:** "4"

**Insert:** "3"

15. Page 6, line 9.

**Following:** "5"

**Strike:** "4"

**Insert:** "3"

16. Page 6, line 10.

**Following:** line 9

**Insert:** "(2) [Section 4] is intended to be codified as an  
integral part of Title 27, chapter 1, part 7, and the  
provisions of Title 27, chapter 1, apply to [section 4]."

17. Page 6, line 12 through line 15.

**Strike:** subsections (2) and (3) in their entirety

- END -

Amendments to House Bill No. 340  
3rd Reading Copy

Requested by Senator Larry Jent

For the Senate Judiciary Committee

Prepared by Valencia Lane

March 28, 2007 (7:33am)

1. Title, line 5.

**Following:** "CLARIFYING"**Strike:** "LAWS RELATING TO"

2. Page 1, line 11 through page 6, line 17.

**Strike:** everything after the enacting clause**Insert:** "NEW SECTION. Section 1. Right of self defense --**exceptions.** (1) A person is presumed to have held a reasonable fear of imminent death or serious bodily injury to the person or another person when using defensive force that is intended to or is likely to cause death or serious bodily injury to another person if:

- (a) the person against whom the defensive force was used:
  - (i) was in the process of unlawfully and forcibly entering or had unlawfully and forcibly entered an occupied structure or occupied vehicle; or
  - (ii) had removed or was attempting to remove another person against that person's will from the occupied structure or occupied vehicle; and
- (b) the person who uses defensive force knew or had reason to believe that an unlawful and forcible act was occurring or had occurred.

(2) The presumption set forth in subsection (1) does not apply if:

- (a) the person against whom the defensive force is used is an owner, lessee, or titleholder of or otherwise has the right to be in or is a lawful resident of the occupied structure or occupied vehicle and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person;

- (b) the person or persons sought to be removed is a child or grandchild of or is otherwise in the lawful custody of or under the lawful guardianship of the person against whom the defensive force is used;

- (c) the person who uses defensive force is engaged in an unlawful activity or is using the occupied structure or occupied vehicle to further an unlawful activity; or

- (d) the person against whom the defensive force is used is a law enforcement officer who enters or attempts to enter an occupied structure or occupied vehicle in the performance of the



officer's official duties and the officer identified the officer in accordance with any applicable law or the person using force knew or reasonably should have known that the person entering or attempting to enter was a law enforcement officer.

(3) A person who is not engaged in an unlawful activity and who is attacked in any other place where the person has a right to be has no duty to retreat and has the right to stand the person's ground and meet force with force if the person reasonably believes it is necessary to do so to prevent death or serious bodily injury to the person or another person or to prevent the commission of a forcible felony.

(4) A person who unlawfully and by force enters or attempts to enter a person's occupied structure or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or violence.

(5) A law enforcement agency may use standard procedures for investigating the use of force described in subsection (1), but the agency may not arrest the person for using force unless the agency determines that there is probable cause that the force that was used was unlawful."

**Insert: "NEW SECTION. Section 2. Right of self defense -- immunity.** (1) A person who uses force as permitted in [section 1] is justified in using force and is immune from civil actions for the use of force, unless the person against whom force was used is a law enforcement officer who was acting in the performance of the officer's official duties and the officer identified the officer in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer.

(2) The court shall award reasonable attorney fees and court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant is immune as provided in subsection (1)."

**Insert: "NEW SECTION. Section 3. {standard} Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 45, chapter 3, part 1, and the provisions of Title 45 apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 27, chapter 1, part 7, and the provisions of Title 27, chapter 1, apply to [section 2]."

- END -

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Rubelwrightsman	827-3584	MSPDA	HP340		✓
Lee Dutton	447-8235	MSPDA	HB340		✓
SERGE MYERS	797-3334	MYSELF	HB340	X	
George N. Law	797-3343	MSS	HB340	X	
Garett Bacon	425-3191	Prickly Pear/self	HB340/420	X	
Mike Weber	433-2525	MCA	HB340		✓
Cathy Day	461-0660	ACLU	HB315		X
Jani McCall	670-3084	American Diabetes Assoc	HB215		X
Jani McCall	670-3084	City of Billings	HB340		X
Bruce Mowbray		missile	HB340	X	
Mike Gurnaw	721-9070	MTCP	HB420	X	
Galt	443-0009	SELF	HB340	X	
Laura Ren	223-5330	USA	HB340	X	
Fred Easg	443-7656	Self & Son	HB340	X	
FRANK J. SMITH	768-3841	SELF	HB340		X
Sam Pinsky	444-2026	DOT	HB340		
Chris Hoffman	375-4055	RAVALLI County Soc	HB340		X
Joe Peal	223-5330	SELF	HB420	X	
JD Syme	441-1461	Biotechnology Industry Org	HB215		X

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**Fact Sheet: Competition, Innovation and Stem Cell Research Policy**

**• Stem cell initiatives can be used to incentivize regional competition within the United States**

"A \$66.4 million proposal to establish a research institute in Massachusetts and an international conference in Connecticut are heating up the competition for stem cell discovery dominance in New England."<sup>1</sup>

**• Within the U.S., states with strict restrictions on stem cell research are losing this competition**

"Despite winning a large biotech firm in 2003, Florida may face heavy competition in luring biotech companies as other states move to legalize stem cell research. Gov. Jeb Bush last year announced a deal to bring The Scripps Research Institute to Palm Beach County, creating thousands of jobs studying biotech cures thanks to the state's largest-ever incentive package. But New Jersey joined California Jan. 4 as one of two states expressly allowing embryonic stem cell research, including study of cells taken from embryos created by a process known as therapeutic cloning, which pushes them ahead in the competitive field.

Florida lawmakers in 2002 passed a broad ban on cloning, and research statewide has involved mostly adult stem cells -- not embryonic stem cells from fetuses or fertility centers restricted by President Bush. New Jersey lawmakers' actions leave scientists in Florida wondering whether the state will be able to keep pace in the promising field."<sup>2</sup>

**• Internationally, competitors fuel research with less restrictive policies and infrastructure**

"The European Union has agreed to finance human stem cell research...The funding will only be available under strict conditions, including a ban on research aimed at human cloning for reproductive purposes and on research intended to modify the genetic heritage of humans. The funding will come from the EU's research budget of €51 billion, or \$64 billion, for 2007 to 2013."<sup>3</sup>

"Other countries have taken a patchwork approach to regulating this field, with the United Kingdom and South Korea specifically encouraging embryonic stem cell research."<sup>4</sup>

"The centerpiece of Singapore's biotechnology effort is the Biopolis, a seven-building biomedical hive that opened in late 2003 at a cost of 500 million Singapore dollars. It is outfitted with the latest high-tech equipment and an underground facility made to house a quarter-million laboratory mice. Authorities are now building a stem cell bank at Biopolis, which will be able to count on some of the world's most liberal laws on human embryonic cell usage. Singapore officials say they have spent 1.5 billion Singapore dollars (\$949 million) on biotechnology since 2000 and have budgeted another 1.44

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<sup>1</sup> "Stem cell initiatives are heating up regional competition," by Catherine Williams, *Mass High Tech: The Journal of New England Technology*, March 23, 2007. Available online at <http://www.bizjournals.com/jacksonville/othercities/masshightech/stories/2007/03/26/story11.html?b=1174881600^143653>

<sup>2</sup> "Stem cell research ban may harm biotech industry," by P. Douglas Filarosk, *Jacksonville Business Journal*, January 9, 2004. Available online at <http://jacksonville.bizjournals.com/jacksonville/stories/2004/01/12/story6.html>

<sup>3</sup> "EU to finance stem cell research," by Dan Bilefsky, *International Herald Tribune*, July 25, 2006. Available online at <http://www.iht.com/articles/2006/07/25/news/union.php>

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billion Singapore dollars more over the next five years to finance development of new therapies and drugs.”<sup>5</sup>

- **The U.S. is falling further behind its competitors in the field of stem cell research**

“Five years ago, President Bush announced that funding from the National Institutes of Health could not be used to develop stem cell lines made from newly donated embryos. The consequences of the Bush policy are profound and unambiguous. The NIH's own officials admit the agency has ceded leadership in the field. Once brimming with experts, scientists no longer undertake trips to Washington to learn about important advances in stem cell biology. Instead, countries where the research is encouraged have stepped into the breach, making new lines at an astonishing rate. Their discoveries are increasingly showcased at scientific meetings.

And now, evidence confirms the nation is falling further behind its competitors. One of the best measures of scientific productivity is publishing peer-reviewed research in scientific journals. A recent article in *Nature Biotechnology* analyzed whether stem cell researchers in other countries are out-publishing U.S. scientists. When categorizing human embryonic stem cell research papers according to whether they were within or outside the United States, it was determined that research has accelerated at a faster pace internationally. In 2002, roughly one-third of the papers were from U.S. research groups. By 2004, U.S. groups accounted for only one-quarter of the publications.<sup>6</sup> The publications came from 97 research organizations, 45 percent of which were within the United States. Of the 18 countries publishing human embryonic stem cell research, the United States, Israel, the United Kingdom and South Korea had the largest number of research organizations.”<sup>7</sup>

- **Such Restrictive Policies dampen competition, and lead to “Brain Drain” from the U.S.**

“It began in 2002 when the University of California's Roger Petersen fled to Britain's Cambridge University. The exodus of senior researchers has continued. Late last year, two of the nation's top government stem cell biologists moved to Singapore instead of coming to Stanford. Last month Singapore struck again, taking two of California's best researchers.”

“Simply put, cutting off funding will stop science. And no scientist dares pin a career on a discipline that could be outlawed at any moment. Other countries like Singapore, China and the United Kingdom know this, and are raising money to lure American scientists. The pioneering model we use to benefit our own citizens is being hijacked, one laboratory at a time.”<sup>8</sup>

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<sup>5</sup> “Singapore Acts as Haven for Stem Cell Research,” by Wayne Arnold, *The New York Times*, August 17, 2006. Available online at <http://www.nytimes.com/2006/08/17/business/worldbusiness/17stem.html?pagewanted=1&ei=5088&en=a3268595bc581cd7&ex=1313467200&partner=rssnyt&emc=rss>

<sup>6</sup> “Vantage Point: United States losing competitive edge in stem cell research,” by Christopher Thomas Scott and Jennifer McCormick, *Stanford Report*, May 3, 2006. Available online at <http://news-service.stanford.edu/news/2006/may3/med-vantage-050306.html>

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